27.201-1 General.

(a) Pursuant to 28 U.S.C. 1498, the exclusive remedy for patent or copyright infringement by or on behalf of the Government is a suit for monetary damages against the Government in the Court of Federal Claims. There is no injunctive relief available, and there is no direct cause of action against a contractor that is infringing a patent or copyright with the authorization or consent of the Government (e.g., while performing a contract).

(b) The Government may expressly authorize and consent to a contractor’s use or manufacture of inventions covered by U.S. patents by inserting the clause at 52.227-1, Authorization and Consent.

(c) Because of the exclusive remedies granted in 28 U.S.C. 1498, the Government requires notice and assistance from its contractors regarding any claims for patent or copyright infringement by inserting the clause at 52.227-2, Notice and Assistance, Regarding Patent and Copyright Infringement.

(d) The Government may require a contractor to reimburse it for liability for patent infringement arising out of a contract for commercial products or commercial services by inserting the clause at 52.227-3, Patent Indemnity.

Parent topic: 27.201 Patent and copyright infringement liability.